

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN

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M.J.J.,

Plaintiff,

v.

POLK COUNTY SHERIFF'S DEPARTMENT,  
DARRYL L. CHRISTENSEN,

Defendants.

Case No. 15-CV-433

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**ANSWER TO SECOND AMENDED COMPLAINT  
AND AFFIRMATIVE DEFENSES**

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Defendant, Darryl L. Christensen, by Martin J. De Vries of Sager & Colwin Law Offices, S.C., answers plaintiff's 2<sup>nd</sup> Amended Complaint as follows:

1. Answering paragraph 1, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

2. Answering paragraph 2, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

3. Answering paragraph 3, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

4. Answering paragraph 4, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

5. Answering paragraph 5, admits.

6. Answering paragraph 6, admits.

7. Answering paragraph 7, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

8. Answering paragraph 8, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

9. Answering paragraph 9, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

10. Answering paragraph 10, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

11. Answering paragraph 11, defendant denies “sexual assault” and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

12. Answering paragraph 12, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

13. Answering paragraph 13, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

14. Answering paragraph 14, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

15. Answering paragraph 15, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

16. Answering paragraph 16, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

17. Answering paragraph 17, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

18. Answering paragraph 18, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

19. Answering paragraph 19, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

20. Answering paragraph 20, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

21. Answering paragraph 21, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

22. Answering paragraph 22, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

23. Answering paragraph 23, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

24. Answering paragraph 24, defendant denies taking advantage and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

25. Answering paragraph 25, defendant denies taking advantage and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

26. Answering paragraph 26, defendant denies “misconduct” and is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations.

27. Answering paragraph 27, admits, except the actions were consensual and not necessarily “numerous”.

28. Answering paragraph 28, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the amount of times alleged.

29. Answering paragraph 29, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the amount of times alleged.

30. Answering paragraph 30, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the amount of times alleged.

31. Answering paragraph 31, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

32. Answering paragraph 32, is without knowledge or information sufficient to form a belief as to the truth of the allegations. All actions were consensual.

33. Answering paragraph 33, is without knowledge or information sufficient to form a belief as to the truth of the allegations. All actions were consensual.

34. Answering paragraph 34, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

35. Answering paragraph 35, is without knowledge or information sufficient to form a belief as to the truth of the allegations. All actions were consensual.

36. Answering paragraph 36, is without knowledge or information sufficient to form a belief as to the truth of the allegations. All actions were consensual.

37. Answering paragraph 37, denies and denies the amount of times alleged.

38. Answering paragraph 38, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies the amount of times alleged.

39. Answering paragraph 39, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

40. Answering paragraph 40, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

41. Answering paragraph 41, denies.

42. Answering paragraph 42, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

43. Answering paragraph 43, denies.

44. Answering paragraph 44, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

45. Answering paragraph 45, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

46. Answering paragraph 46, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

47. Answering paragraph 47, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

48. Answering paragraph 48, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

49. Answering paragraph 49, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

50. Answering paragraph 50, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

51. Answering paragraph 51, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

52. Answering paragraph 52, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

53. Answering paragraph 53, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

54. Answering paragraph 54, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

55. Answering paragraph 55, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

56. Answering paragraph 56, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

57. Answering paragraph 57, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

58. Answering paragraph 58, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

59. Answering paragraph 59, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

60. Answering paragraph 60, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

61. Answering paragraph 61, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

62. Answering paragraph 62, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

63. Answering paragraph 63, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

64. Answering paragraph 64, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

65. Answering paragraph 65, denies.

66. Answering paragraph 66, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

67. Answering paragraph 67, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

68. Answering paragraph 68, incorporates herein answers to paragraph 1 through 67 of the amended complaint.

69. Answering paragraph 69, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

70. Answering paragraph 70, denies.

71. Answering paragraph 71, denies.

72. Answering paragraph 72, denies.

73. Answering paragraph 73, denies.

74. Answering paragraph 74, denies.

75. Answering paragraph 75, denies.

76. Answering paragraph 76, incorporates herein answers to paragraph 1 through 75 of the amended complaint.

77. Answering paragraph 77, denies.

78. Answering paragraph 78, denies.

79. Answering paragraph 79, denies.

80. Answering paragraph 80, denies.

81. Answering paragraph 81, denies.

82. Answering paragraph 82, incorporates herein answers to paragraph 1 through 81 of the amended complaint.

83. Answering paragraph 83, denies.

84. Answering paragraph 84, denies.

85. Answering paragraph 85, denies.

86. Answering paragraph 86, denies.

87. Answering paragraph 87, denies.



88. Answering paragraph 88, incorporates herein answers to paragraph 1 through 87 of the amended complaint.

89. Answering paragraph 89, denies.

90. Answering paragraph 90, denies.

91. Answering paragraph 91, denies.

92. Answering paragraph 92, denies.

93. Answering paragraph 93, denies.

94. Answering paragraph 94, denies.

95. Answering paragraph 95, denies.

96. Answering paragraph 96, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

97. Answering paragraph 97, denies.

98. Answering paragraph 98, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

99. Answering paragraph 99, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

100. Answering paragraph 100, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

101. Answering paragraph 101, denies.

102. Answering paragraph 102, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

103. Answering paragraph 103, denies.

104. Answering paragraph 104, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

105. Answering paragraph 105, is without knowledge or information sufficient to form a belief as to the truth of the allegations..

106. Answering paragraph 106, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

107. Answering paragraph 107, denies.

108. Answering paragraph 108, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

109. Answering paragraph 109, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

110. Answering paragraph 110, denies.

111. Answering paragraph 111, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

112. Answering paragraph 112, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

113. Answering paragraph 113, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

114. Answering paragraph 114, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

115. Answering paragraph 115, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

116. Answering paragraph 116, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

117. Answering paragraph 117, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

118. Answering paragraph 118, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

119. Answering paragraph 119, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

120. Answering paragraph 120, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

121. Answering paragraph 121, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

122. Answering paragraph 122, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

123. Answering paragraph 123, denies.

124. Answering paragraph 124, incorporates herein answers to paragraph 1 through 123 of the amended complaint.

125. Answering paragraph 125, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

126. Answering paragraph 126, is without knowledge or information sufficient to form a belief as to the truth of the allegations

127. Answering paragraph 127, denies.

128. Answering paragraph 128, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

129. Answering paragraph 129, denies.

130. Answering paragraph 130, denies.

131. Answering paragraph 131, incorporates herein answers to paragraph 1 through 130 of the amended complaint.

132. Answering paragraph 132, denies.

133. Answering paragraph 133, denies.

134. Answering paragraph 134, denies.

135. Answering paragraph 135, denies.

136. Answering paragraph 136, denies.

137. Answering paragraph 137, incorporates herein answers to paragraph 1 through 136 of the amended complaint.

138. Answering paragraph 138, denies.

139. Answering paragraph 139, denies.

140. Answering paragraph 140, denies.

141. Answering paragraph 141, incorporates herein answers to paragraph 1 through 140 of the amended complaint.

142. Answering paragraph 142, denies.

143. Answering paragraph 143, denies.

144. Answering paragraph 144, denies.

145. Answering paragraph 145, denies.

146. Answering paragraph 146, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

147. Answering paragraph 147, denies.

148. Answering paragraph 148, incorporates herein answers to paragraph 1 through 147 of the amended complaint.

149. Answering paragraph 149, denies.

150. Answering paragraph 150, denies.

151. Answering paragraph 151, denies.

152. Answering paragraph 152, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

153. Answering paragraph 153, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

154. Answering paragraph 154, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

155. Answering paragraph 155, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

156. Answering paragraph 156, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

157. Answering paragraph 157, denies.

158. Answering paragraph 158, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

159. Answering paragraph 159, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

160. Answering paragraph 160, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies assaults.

161. Answering paragraph 161, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

162. Answering paragraph 162, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

163. Answering paragraph 163, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

164. Answering paragraph 164, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies “exploitation”.

165. Answering paragraph 165, incorporates herein answers to paragraph 1 through 164 of the amended complaint.

166. Answering paragraph 166, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

167. Answering paragraph 167, is without knowledge or information sufficient to form a belief as to the truth of the allegations and denies sexual assault and battery.

### **AFFIRMATIVE DEFENSES**

As and for affirmative defenses to plaintiff's 2<sup>nd</sup> amended complaint, defendant Darryl L. Christensen submits the following:

1. Defendant is entitled to immunity from liability and suit pursuant to the doctrine of qualified immunity.
2. Plaintiff's claims are barred by *Parratt v. Taylor*, 451 U.S. 521 (1981).
3. Plaintiff has not alleged facts sufficient to support punitive damages.
4. Plaintiff may have failed to mitigate damages.
5. Plaintiff's amended complaint fails to state a claim upon which relief can be granted.
6. Some or all of plaintiff's claims may be barred by the statute of limitations.
7. Plaintiff failed to exhaust administrative remedies.
8. Plaintiff's claims are barred or limited by the provisions of 42 U.S.C. § 1997e(e) injury requirement.
9. Plaintiff's state law claims are barred by failure to comply with notice of claim provisions of Wis. Stats. §893.80 and subject to caps set forth therein.
10. The actions of defendant Darryl L. Christensen alleged in the Amended Complaint were not actions under color of state law.

### **JURY DEMAND**

Defendant demands a jury trial in this case.

**PRAYER FOR RELIEF**

DEFENDANT Christensen hereby requests that the court dismiss the 2<sup>nd</sup> Amended Complaint and grant any other relief including costs and attorney fees.

Dated at Fond du Lac, Wisconsin, this 13<sup>th</sup> day of July, 2016.

SAGER & COLWIN LAW OFFICES, S.C.  
Attorneys for Defendant,  
Darryl L. Christensen

*/s/ Martin J. De Vries*

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Martin J. De Vries  
State Bar No. 1032279

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